

LOUISIANA PUBLIC DEFENDER BOARD

Thursday, February 11, 2010
2:00 P.M.

LSU Law School
1 East Campus Drive
Tucker Room, 3rd Floor
Baton Rouge, Louisiana 70803

Agenda

1. Call to Order and Welcoming Remarks by Chairman
2. Roll Call
3. Review and Approval of Minutes of December 3, 2009, Board Meeting* - **Tab 1**
4. Public Comments
5. Report of the Chairman
6. Budget Officer Report – **Tab 2**
 - a. Request for Emergency Funding for St. Bernard, 34th JDC, in the Amount of \$110,000.*
 - b. Request by Grant Defender, 35th JDC, to Reallocate \$34,425*
 - c. CINC Distribution* Tab – **Tab 3**
 - d. District 33 update – Return of Overhead and Unapproved Salary Increase
 - i. District Defender Asked to Appear
 - e. FY 11 Budget Update – Increase of \$8 Million Over this Year - Restricted Purposes
 - f. DAF issued on January 27, 2010 totaled \$6,121,957* **Tab 4**
 - g. Meeting with Legislative Auditor and Staff
 - i. Lack of uniform reporting to District Defenders Possible Joint Training to be given by Legislative Auditor and LPDB during the Annual District Defender Meeting on Internal Controls and Segregation of Duties.
7. District Defender Office Overhead Update* - **Tab 5**
8. 26th JDC District Defender Selection Update*
9. Expansion of the Summer Internship Program*
10. Discussion on Proposed Resolution, re: Overhead, 60-day Interim Authority* - **Tab 6**
11. Suggested Legislation:*
 - a. Expediting Juvenile Cases – **Tab 7**
 - b. Reducing Mandatory Minimum Number of Board Meetings
 - c. Eliminating Requirement that Three of Meetings be Held Outside of East Baton Rouge Parish

* Requires Board Approval

12. District Defender Training – Mandatory Attendance
 - a. Supervision/Leadership – Mar. 12-13
 - b. CLE Provider*
13. BJA
 - a. 14th JDC Criminal Court's Technical Assistance Project Update – **Tab 8**
 - b. 41st JDC/Public Defender Office - **Tab 9**
14. CINC Issues, re: Transition of Children's Representation to Legal Services
15. NLADA report – 15th JDC
16. Status of Class Action Lawsuit in Calcasieu Parish, Judge Caldwell's Court (19th JDC)
17. Orleans Caseload – **Tab 10**
18. State Public Defender Report – **Tab 11**
19. Scheduling Next Two Board Meetings
20. New Business
21. Adjournment

LOUISIANA PUBLIC DEFENDER BOARD

Minutes of Meeting

February 11, 2010

Tucker Room
Louisiana State University School of Law
Baton Rouge, Louisiana

A meeting of the Louisiana Public Defender Board, pursuant to call of the Chairman and lawful notice, was duly convened and called to order by its Chairman at 2:05 p.m. on Thursday, February 11, 2010, in the Tucker Room at Louisiana State University School of Law in Baton Rouge, Louisiana. Mr. Neuner recognized Board Member McGough for arranging this venue for the February 11, 2010, Board Meeting.

The following Board Members were present:

Frank Neuner, Chairman	James E. Boren
Judge Robert Burns	Cleveland Coon
Rev. Dan Krutz	Luceia LeDoux
Lucy McGough	Sam Dalton
Leo Hamilton	Christine Lipsey
Pam Metzger	Frank Holthaus

The following Board Members were absent:

Judge William Norris	Majeeda Snead
Gina Womack	

The following *ex officio* Board Members were present:

Rebecca Hudsmith

The following *ex officio* Board Members were absent:

Judge Robert Brinkman

The following members of the Board's staff were present:

Kristy Z. Boxberger, Juvenile Justice Compliance Officer
Marianne Buchanan, Budget Officer
John Di Giulio, Trial-Level Compliance Officer
Jean M. Faria, State Public Defender
Anne Gwin, Executive Assistant to State Public Defender
Roger Harris, General Counsel

Julie Kilborn, Deputy Public Defender – Director of Training
Dr. Erik Stilling, Information Technology and Management Officer
Clay Walker, Deputy Public Defender – Director of Juvenile Defender Services

1. **Review and Approval of Minutes of December 3, 2009 Board Meeting.** The Board reviewed the minutes of its meeting of December 3, 2009. Ms. LeDoux made the motion to accept the minutes. The motion was seconded by Rev. Krutz, and was approved without opposition.
2. **Report of the Chairman.** Chairman Neuner reported that Drew Rainer, the President of the Louisiana Bar Foundation, contacted him to report that Board member Jim Boren and State Public Defender Jean Faria were both nominated for the Calogero Justice Award. The award, however, will be given to the entire Louisiana Public Defender Board. Mr. Neuner thanked the Board for its dedication and work and congratulated them on the award. Mr. Neuner welcomed Frank Holthaus as a Board member, replacing Remy Starns. Mr. Neuner thanked Mr. Starns for his service. Mr. Neuner reported that Judge Norris' replacement has not yet been appointed. Mr. Neuner thanked Judge Norris for his service.
3. **Public Comments.** There were no public comments at this time.
4. **Budget Update.** Budget Officer Buchanan reported that the Louisiana Public Defender Board has \$59,087.00 remaining for reallocation after the following distributions are made:
 - a. **District 34.** District 34 has made an emergency request for funds because they did not receive their DAF distribution in either January or August 2009 due to non-compliance with reporting requirements. Ms. Buchanan reported that the District has complied with all conditions of the Budget Committee and is now in compliance. The Budget Committee moves that the Board allocate \$110,000 to District 34. Mr. Boren seconded the motion which was approved without opposition.
 - b. **District 35.** District 35 has requested that the \$34,425 allocated to it in 2007 for the use of investigators be unrestricted so that it can be used for its general budget. Ms. Buchanan reported that the reserves in the 35th District are low and that the money has not been used for investigators in two years. The Budget Committee moved that the \$34,425 in the 35th JDC be unrestricted. Mr. Boren asked that the state staff report to the Board about the use of investigators in the 35th and the possible need for training on the use of investigators in that office. Mr. Boren then seconded the motion which was approved without opposition.
 - c. **CINC Distribution.** Deputy Defender Walker requested that the \$488,305 budgeted for the CINC Parent Representation Program be allocated according to the schedule presented behind Tab 3 of the board materials. Mr. Hamilton requested that the policy decisions regarding the CINC Parent Representation Program be re-examined by a policy committee. Mr. Hamilton expressed concern that the Defenders were

assigned the Parent Representation before legislation to fund such representation was approved. The Budget Committee moved that the \$488,305 be allocated for the CINC Parent Representation Program. Professor McGough seconded the motion which was approved without opposition.

- d. **District 33.** Ms. Buchanan updated the Board that the District Defender had returned all unapproved salary increases totaling \$7,000 and overhead payments totaling \$3,000 back to the District's reserves and was now in compliance with Act 307.
 - e. **FY '11 Budget Update.** Ms. Buchanan reported that the Governor's budget included an \$8 million dollar increase from FY '10. Ms. Faria reported that after meeting with the Division of Administration, it was clear that the \$8 million was intended for use in the districts where litigation was pending or imminent – the 14th, 15th and 41st districts. Ms. Buchanan reported that \$7 million was going to be allocated to those three districts, \$500,000 was going to be used for database development, and \$500,000 was going to be allocated to the CINC Parent Representation Program.
 - f. **District Assistance Formula for January 2010.** Ms. Buchanan requested Board approval for the allocation of \$6,121,957 as reported in the tables behind Tab 4 of the board materials. She explained that this distribution was determined pursuant to the new District Assistance Formula which addressed the districts' reserves and the need for spend-down in certain districts. The Budget Committee moved for approval of the distribution. Mr. Hamilton seconded the motion which was approved without opposition.
 - g. **Legislative Auditor.** Ms. Buchanan reported on the meeting with the Legislative Auditor regarding the distribution of Parish funds to each district and the Legislative Auditor agreed that District Defenders should receive a detailed breakdown of the funds received from their local sheriff. The Legislative Auditor has agreed to assist staff in scheduling a meeting with the various sheriffs to discuss the need for proper accounting of local funds. The Legislative Auditor has also agreed to provide training to District Defenders on the need for internal controls and segregation of duties.
5. **Policy Committee.** Professor Metzger moved that a Policy Committee be formed by Chairman Neuner and that he call on any member to attend a committee meeting based on each member's area of expertise. Mr. Holthaus volunteered to join the Policy Committee as a regular member.
6. **District Defender Office Overhead.** Trial Compliance Officer John Di Giulio reported that several districts had requested funds be allocated for overhead expenses. Mr. DiGiulio submitted a resolution that granted the State Public Defender interim authority to resolve each of these issues on a temporary basis while a policy is developed to address this issue. Mr. Hamilton recommended that the resolution allow 90 days interim authority for Ms. Faria and that the resolution first should be submitted to the Louisiana Board of Ethics and the Legislative Auditor for approval. Mr. Boren moved that the

resolution with 90 day interim authority be approved. Ms. LeDoux seconded the motion which was approved without opposition.

7. **District Defender Selection for the 26th JDC.** Mr. DiGiulio reported that the three member panel in the 26th JDC interviewed several candidates, recommending four possible candidates for the position. The executive staff of the Board along with Ex-Officio Board member Rebecca Hudsmith interviewed the four possible candidates and unanimously recommended Pam Smart for the District Defender position in the 26th JDC. Professor Metzger moved that Pam Smart be hired as the District Defender in the 26th JDC. Ms. LeDoux seconded the motion which was approved without opposition.
8. **Summer Internship Program.** Mr. Walker reported that \$20,000 had been designated in the budget for the summer internship program. The program this summer will be expanded to all four state law schools and will include both adult and juvenile defender programs. Judge Burns moved that the \$20,000 be approved for the summer internship program. Professor Coon seconded the motion which was approved without opposition.
9. **Suggested Legislation.** The Board staff recommended three pieces of legislation for Board approval: 1) reducing the mandatory number of Board meetings to a minimum of four per year; 2) eliminating the requirement that three of the Board meetings be held outside East Baton Rouge Parish; and 3) a presumption of indigence for juveniles which will expedite juvenile cases.

Mr. Boren moved that the Board recommend the first two pieces of legislation (meeting times and locations) to the Legislature. Mr. Hamilton seconded the motion which was approved without opposition.

Mr. Boren asked for more explanation regarding the presumption of indigence for juveniles. Mr. Walker explained that without a presumption of indigence, juvenile defenders were unable to meet with clients in advance of the continued custody hearing. This legislation would allow for appropriate investigation pre-continued custody as well as aid in earlier diversion of appropriate cases. Professor McGough reported that this was legislation which was approved by the Children's Code Committee as well as the Law Institute. Mr. Dalton moved that the Board recommend the presumption of indigence for juveniles to the Legislature. Mr. Boren seconded the motion which was approved without opposition.

10. **District Defender Supervision and Management Training.** Mr. Neuner reported that the staff has prepared a training program for all district defenders for management and supervision development. He asked that the Board consider making the training mandatory due to the significance of the material. Mr. Boren asked the District Defenders in attendance whether they had objections to the training being mandatory. Mr. Champagne reported that as long as exceptions were made for reasonable excuses, such as illness, that the District Defenders had no objection to the training being mandatory. Mr. Dalton moved that the District Defender Management and Supervision Training be mandatory. Professor Metzger seconded the motion which was approved

without opposition. Mr. Boren reported that the statute describing the trainings to be provided by the Director of Training allows for CLE credit to be given for those trainings. Mr. Harris submitted a resolution that directed the Director of Training to obtain approval to offer continuing legal education credits in connection with the Board's training programs. Profession McGough moved that the resolution be approved. Mr. Holthaus seconded the motion which was unanimously approved.

11. BJA.

- a. **14th JDC Report.** The judges have voted en banc to invite BJA to work with the criminal justice system to analyze case flow and docketing procedures.
- b. **41st JDC Report.** Chairman Neuner reported that the BJA report regarding Orleans had just been received by the state staff and has not yet been analyzed. Mr. Flood reported that the staff at OPD has been investigating the issues raised in the report – having already implemented many of the recommendations made therein. The state staff will continue this work and report to the Board at the next meeting.

12. NLADA Report. Mr. Neuner reported that the NLADA Report regarding the 15th JDC is not yet complete. It is expected in March.

13. Litigation in the 14th. The stay in the class action suit in Calcasieu has been lifted. The Attorney General's office (representing the Governor and the Legislature) has filed Exceptions for No Cause of Action and No Right of Action. The hearing for these exceptions is scheduled for March 8, 2010.

14. Raymond Cannon's Law Suit. In the 6th JDC, Raymond Cannon filed suit against the Board. Roger Harris is representing the Board. Mr. Harris reported that Mr. Cannon has been deposed. Mr. Cannon's Preliminary Injunction to stop his termination will be heard in early March.

15. Orleans Caseload. A letter was received from Judge Hunter in the 41st JDC regarding excessive caseload. The District Defender in the 41st, Derwyn Bunton, is investigating issues raised in Judge Hunter's letter and is monitoring caseload in the district.

16. State Public Defender's Report. The State Public Defender submitted her written report. She added that Mr. Neuner has contacted Mayor-Elect Landrieu's transition team and has a meeting February 23rd to discuss the criminal justice system in New Orleans.

17. Additional Business. Ms. LeDoux moved that the agenda be amended for an additional item. Mr. Holthaus seconded the motion which was approved without opposition. Ms. LeDoux reported that the Pew Technical Advisors Group was working in several states on reforms in sentencing. Ms. LeDoux moved that the Board adopt a resolution that the LPDB invite the Pew Foundation to adopt Louisiana as one of its project states for sentencing reform and that the Board contact the Governor, the President of the Senate and the Speaker of the House to similarly invite the Pew Group to work in Louisiana on

sentencing reform. Mr. Hamilton seconded the motion which was approved without opposition.

18. **Next Meeting Date(s).** Chairman Neuner sought input on future meetings days and times. It was decided that the Board would meet on March 15, 2010 at 2pm and again on April 19, 2010 at 2pm.
19. **Adjournment.** Mr. Hamilton moved that the meeting be adjourned. Mr. Holthaus seconded the motion which was approved without opposition.

Guests Present:

Tony Champagne
Bradley Dautat
Reggie McIntyre
Richard Thompson
Tommy Gernhauser
Clay Carroll
Vic Bradley
Alex Chapman
Mike Mitchell

Kerry Cuccia
Gary Clements
Brian McRae
Chris Flood
David Deshotels
Steve Thomas
Bob Noel
Alan Robert

I HEREBY CERTIFY that the foregoing is a full, true and correct account of the proceedings of the Louisiana Public Defender Board, held on February 11, 2010, as approved by the Board on the 19th day of April, 2010.



FRANK X. NEUNER, JR.
CHAIRMAN